Supreme Court, U.S.
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No. 99-1963

IN THE
SUPREME COURT OF THE UNITED STATES

STATE OF FLORIDA,
Petitioner,

v.

STANLEY SHADLER,
Respondent.

ON PETITION FOR WRIT OF CERTIORARI
TO THE FLORIDA SUPREME COURT

RESPONDENT'S BRIEF IN OPPOSITION

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QUESTION PRESENTED

WHETHER THE GOOD FAITH EXCEPTION ESPOUSED IN UNITED *STATES V. LEON*, 468 U.S. 897 APPLIES TO A CIRCUMSTANCE WHERE AN ADMINISTRATIVE ARM OF A LAW ENFORCEMENT AGENCY PROVIDES ERRONEOUS INFORMATION TO A LAW ENFORCEMENT OFFICER RESULTING IN AN INVALID ARREST?

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REASON FOR DENYING THE WRIT

The State of Florida seeks for this Court to extend the good faith exception to the exclusionary rule out of the realm to which it has heretofore been confined, *i.e.* to reliance on the actions of judicial, *United States v. Leon*, 468 U.S. 897 (1984) and *Arizona v. Evans*, 514 U.S. 340 (1995) and Legislative bodies, *Illinois v. Krull*, 480 U.S. 340 (1987) and into the actions of Law Enforcement agencies themselves.

In *United States v. Leon*, 468 U.S. 897 (1984), this Court created a "good faith exception" to the exclusionary rule when it allowed the admission of evidence seized pursuant to a defective warrant provided by a California State Superior Court Judge.

Of great importance to the Court in reaching that decision was that the officers were "reasonably relying on a warrant issued by a detached and neutral magistrate" at 912. The Court concluded that the search warrant provided "the detached scrutiny of a neutral magistrate" at 912. The first prong of the *Leon* test, which the Petitioner feels the Florida Supreme Court failed to follow, is that the error or misconduct must not be by a police agency. Failing that test of neutrality the remaining inquiry was irrelevant.

This Court recognized, as did the Florida Supreme Court, that while the exclusionary rule "is thought to operate as 'systememic deterrent' on a wider audience" it did not apply to judges and magistrates who "are not adjuncts to the law enforcement team" at 917. In order for the exclusionary rule to apply "it must alter the behavior of law enforcement officers or the policies of their departments" at 918. It was just such policies and operating procedures that the Florida

Supreme Court targeted in their decision in this case as well as its precursor, *State v. White*, 660 So. 2d 664 (Fla. 1995).

In a decision reached shortly before the Florida Supreme Court decided *White*, this Court decided the case of *Arizona v. Evans*, 514 U.S. 1 (1995). In that case the good faith exception was extended to data processing errors made by court employees. While the *Arizona* court had rejected the distinction between whether an error was made by court personnel or law enforcement personnel, that distinction was a major focus of this Court in reversing the *Arizona* decision. The Court noted that the exclusionary rule was aimed at police conduct and further noted that court clerks were "not adjuncts of the law enforcement team" at 15.

That the extension of the good faith exception did not extend into the inner workings of a law enforcement agency was made clear in Justice O'Connor's concurring opinion, joined by Justices Breyer and Souter. Her conclusion, specifically cited by the Florida Supreme Court, was that:

> In recent years, we have witnessed the advent of powerful, computer-based record keeping systems that facilitate arrests in ways that have never before been possible. The police, of course, are entitled to enjoy the substantial advantage this technology confers. They may not, however, rely on it blindly. With the benefits of more efficient law enforcement mechanisms comes the burden of corresponding constitutional responsibilities.

Evans, 514 U.S. at 17-18.

With the virtual explosion of computer databases maintained by the nations law enforcement agencies, coupled with the rapid increase in pretextual stops that have extended the ticketing process so that K-9s can arrive and that have brought the expression "driving while black" into the lexicon, the concerns for the rights of citizens cannot be overstated.

The Florida Supreme Court extensively examined the Florida Department of Highway Safey and Motor Vehicles, as demonstrated by their opinion. They correctly noted that the Department considers itself to be a law enfocement agency with fully 45% of its employees in the Highway Patrol. The Division of Drivers Licenses was correctly described as a "vital part of the law enforcement infrastructure of the entire State of Florida." The Supreme Court of Florida should be accorded great deference in their evaluation, description and characterization of the agencies of their State and their determinations should not be ignored unless clearly erroneous.

As a final note, the Court should compare the search in this instance with that which was addressed in *Knowles v. Iowa*, 119 S. Ct. 484 (1998) decided after the Respondent's suppression hearing. The contraband found incident to arrest in this cause by Deputy Bowling was in the Respondent's wallet. As noted by Chief Justice Rehnquist, the two purposes for a search incident to arrest are officer safety and destruction of evidence. Mr. Shadler's offense, driving while license suspended, did not warrant searching his wallet where neither a weapon or further evidence of driving with a suspended license could be found. In *Knowles* the Court declined to extend the "bright line" rule to a search conducted for neither of the above purposes. It should not now be extended to searches for ulterior motives.

CONCLUSION

For the foregoing reasons, the Respondent, respectfully requests this Court deny Certiorari.

Respectfully submitted,

/s/_____
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